

Amendment and Response to Restriction and Election of Species Requirements**REMARKS**

The above amendments and following remarks are responsive to the points raised in the September 27, 2005 non-final Office Action in the above-identified application. Claims 1-27 are pending. No new matter has been introduced. Entry and reconsideration are respectfully requested.

Response to Restriction and Election of Species Requirements

The Examiner, pursuant to 35 U.S.C. § 121, is restricting the application to one of the following identified inventions:

- Group I - "Claims 1-24, drawn to an imaging apparatus, classified in class 250, subclass 370.09";
- Group II - "Claims 25-26, drawn to a method of making an imaging apparatus, classified in class 250, subclass 362"; or
- Group III - "Claim 27, drawn to a method of using an imaging apparatus, classified in class 250, subclass 369."

The Examiner urges that inventions II and I are related to one another as being a process of making and the product made, and inventions I, II, and III are related as product (or product made) and process of use. Since, per the Examiner, that the identified inventions, i.e., above Groups I, II, and III, are distinct for the given reasons and have acquired a separate status in the art as shown by their different classification, restriction, to one of such invention, for examination purposes as indicated is proper.

Applicants respectfully traverse this restriction requirement.

In addition to the above restriction, the Examiner is also requiring Applicants, pursuant to 35 U.S.C. § 121, to elect a single disclosed species for prosecution on the

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merits to which the claims shall be restricted if no generic claim is finally held to be allowable. The Examiner has also indicated that “it is unclear if any claims are generic.” A reply to this election of species requirement “must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added.” Notwithstanding the Examiner’s requirement for Applicants to elect a single species and identify a listing of claims readable thereon, the Examiner has neither identified and discussed (1) any patentably distinct plural species from which Applicants are to elect nor (2) how such species may relate to the above inventions of Groups I, II, and III.

Applicants respectfully traverse this election of species requirement.

Section 803 of the Manual of Patent Examining Procedure (MPEP) states, in part:

“If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions”

and

“There are two criteria for a proper requirement for restriction between patentably distinct inventions:

(A) The inventions must be independent (see MPEP § 802.01, § 806.04, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(i)); and

(B) There must be a serious burden on the examiner if restriction is required (see MPEP § 803.02, § 806.04(a) - § 806.04(i), § 808.01(a), and § 808.02).”

The Examiner, in the above restriction requirement, has identified that each of Groups I, II, and III are drawn to subject matter classified in U.S. Class 250. Each group being identified as being classified in separate subclasses, i.e., subclasses 370.09 (Group

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I), 362 (Group II), and 369 (Group III). Further, the Examiner has not identified any plural species including how such plural species may relate to each of the identified inventions of Groups I, II, and III. As such, the Examiner has not established that a separate field of search would be required for each of Groups I, III, and III or for each of the plural species. More specifically, the Examiner has not identified the required field of search for each invention and species, and has not shown that it would be necessary to search one of the inventions or species in places where no pertinent prior art to another invention or species exists. Even if such plural invention or species are, in fact, present in the application, the Examiner has not established that a search and examination of the entire application can only be made with serious burden. Lacking a serious burden, the Examiner must examine the entire application on the merits, even though it may include claims directed to independent or distinct inventions or species. As such, the Examiner has not satisfied the two criteria for restriction or election as set forth in Section 803 of the MPEP and thus, the restriction and election of species requirements should be withdrawn and all of the claims examined together.

Notwithstanding the above discussion, Applicants, in order to fulfill their duty to reply to the restriction and election of species requirements, **hereby elect the invention of Group I and the single species encompassed thereby, which is readable on Claims 1-24**. Applicants, however, reserve the right to file a divisional application based on the non-elected inventions/species.

Amendment and Response to Restriction and Election of Species Requirements**Response to the Rejection under 35 U.S.C. § 112, Second Paragraph**

Claims 1-27 have been rejected under 35 U.S.C. § 112, second paragraph, on the basis that these claims are “indefinite for failing to particularly point out and distinctly claiming the subject matter which applicant regards as the invention.”

The claims have been amended to obviate this rejection.

Accordingly, the rejection under 35 U.S.C. 112, second paragraph, should be withdrawn.

Response to the Objection of the Drawings

The drawings have been objected to on the basis of various identified issues raised by the Examiner.

In view of the amendments to the drawings and the following discussion, Applicants respectfully submit that this objection to the drawings is now moot and should be withdrawn.

Figures 3 and 6 have been amended to remove the single reference numeral “16” usage for each of the electrodes, which are now individually identified using reference numerals --16s-- and --16d--. Figure 4 has been amended to correctly depict the directions of photodiodes P11-P14, P121-P24, P31-P34, P41-P44 and PA31-PA34. Figure 11 has been amended to remove the single reference numeral “1015” usage for each of the electrodes, which are now individually identified using reference numerals --1015s-- and --1015d--. Applicants have further amended the specification on Pages 15 and 16 by amending reference numerals “MA43” and “MA44” to read as --MA33-- and -

-MA34--, which is also consistent with the original disclosure of the first sentence in the paragraph bridging Pages 16 and 17 of the specification.

In regards to Figures 7 and 8, Applicants respectfully submit that no amendments thereto are necessary because a photoconductive element can be a source or drain depending on the direction of potential to be applied. Applicants also respectfully submits that since reference numerals 15, 23 and 24 denote layers of electrodes and an electrode of being capable of becoming a source or drain dependent on an potential to be applied to the electrode, respectively, it is not necessary to amend Figures 3, 6, and 7 with respect to reference numerals 15, 23 and 24.

Accordingly, the objection to the drawings is now moot and should be withdrawn.

CONCLUSION

Applicant respectfully request that elected Claims 1-24 receive an action on the merits as such claims are (1) directed to the elected invention of Group I and (2) readable on the elected species encompassed by Group I.

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AUTHORIZATIONS

The Commissioner is hereby authorized to charge any additional fees which may be required for the timely consideration of this amendment, or credit any overpayment to Deposit Account No. 13-4500, Order No. 1232-5125.

Respectfully submitted,
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Date: December 27, 2005

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AMENDMENTS TO THE DRAWINGS

The attached drawing sheets 3/29, 4/29, 6/29, 9/ 29, 10/29, and 11/29 include changes to Figures 3, 4, 6, and 9-11. These sheets replace original Figures 3, 4, 6, and 9-11, original drawing sheets 3/29, 4/29, 6/29, 9/ 29, 10/29, and 11/29.

Attachment: Replacement Sheets 3/29, 4/29, 6/29, 9/ 29, 10/29, and 11/29.